

IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE S.SIRI JAGAN

TUESDAY, THE 26TH JUNE 2007 / 5TH ASHADHA 1929

WP(C).No. 20458 of 2005(I)

PETITIONERS:

1. C.D.JOSE, S/O. C.T.DEVASSY,
AGED 32 YEARS, RESIDING AT CHITTIPARAMBAN,
THOMA MUNICIPAL COLONY, LALLOOR, P.O. ELTURUTH,
THRISSUR.
2. M.J. JAIBY, S/O. M.A.JOY,
AGED 24 YEARS, RESIDING AT MALAPPAL HOUSE,
MUKKATTUKARA P.O., NETTISSEY, THRISSUR.
3. V.A.RAMESH, S/O. A.R.AYYAPPAN,
RESIDING AT VARIPARAMBIL HOUSE, P.O. POOTHOLE,
THRISSUR-680 004.
4. K.J.JOMON, S/O. K.P.JOSEPH,
AGED 21 YEARS, RESIDING AT KURISSINKAL HOUSE,
P.O. NEDUVAM, VATTAPUNI, THRISSUR.
5. P.K.SHAKEER, S/O. P.A. KUNJUMON,
AGED 24 YEARS, POONKUNNAM HOUSE, S.N.NAGAR,
P.O. VATTAKKARA, THRISSUR.
6. P.A.SHAMEER, S/O. P.A.ASHRAF,
AGED 24 YEARS, POONKUNAM HOUSE, POUND ROAD,
OLARI P.O., THRISSUR.

BY ADV. SMT.PRABHA R.MENON
SRI.M.KRISHNAKUMAR

..2/-

WPC.NO.20458/2005 I

RESPONDENTS:

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1. THE STATION SUPERINTENDENT,
SOUTHER RAILWAY, TRICHUR RAILWAY STATION.
 2. THE SENIOR DIVISION COMMERCIAL MANAGER,
SOUTHERN RAILWAY, TRIVANDRUM.
 3. C.T.DEVASSRY,
RESIDING AT CHITTIPARAMBAN, THOMA MUNICIPAL COLONY,
LALLOOR, P.O. ELTURUTH, THRISSUR.
 4. M.A. JOY, S/O. ANTONY,
RESIDING AT MALAPPAL HOUSE, MUKKATTUKARA P.O.,
NETTISSERY, THRISSUR.
 5. A.R.AYYAPPAN, S/O. RAMAN,
RESIDING AT VARIPARAMBIL HOUSE, P.O. POOTHOLE,
THRISSUR-680004.
 6. K.P.JOSEPH, S/O. PAPPU,
RESIDING AT KURISSINKAL HOUSE, P.O. NEDUVUM,
VATTAPUNI, THRISSUR.
 7. P.A. KUNJUMON, S/O. ABDUL RAHIMAN,
RESIDING AT POONKUNNAM HOUSE, S.N. NAGAR,
P.O. VATTAKKARA, THRISSUR.
 8. P.A. ASHRAF, S/O. ABDULRAHIMAN,
RESIDING AT POONKUNAM HOUSE, POUND ROAD,
OLARI P.O., THRISSUR.

***ADDL.R9 IS IMPEADED:**

- R9. THRISSUR RAILWAY LICENCED COOLEE PORTERS ASSOCIATION,
REPRESENTED BY ITS SECRETARY, BHUPESH.**

**(ADDL.R9 IS IMPEADED AS PER ORDER DTD. 26/06/2007 IN I.A.NO.
13490/2005)**

**BY ADV. SRI.ALEXANDER THOMAS, SC,RAILWAYS for R1 & R2
SMT.LIGEY ANTONY
SRI.RENJITH THAMPAN
SMT.P.A.ANITHA**

**THIS WRIT PETITION (CIVIL) HAVING BEEN FINALLY HEARD
ON 26/06/2007 ALONG WITH WPC NO. 26236 OF 2005 AND
WPC NO. 33210 OF 2005, THE COURT ON THE SAME DAY
DELIVERED THE FOLLOWING:**

APPENDIX

PETITIONER'S EXHIBITS:

- EXT.P1: COPY OF A COMMUNICATION DTD. 31/12/91 FROM THE MINISTER OF RAILWAYS.**
- EXT.P2: COPY OF A COMMUNICATION DTD. 18/06/97 FROM THE GENERAL MANAGER SOUTHERN RAILWAY.**
- EXT.P3: COPY OF A COMMUNICATION DATED 25/11/97 FROM THE 2ND RESPONDENT.**
- EXT.P4: COPY OF THE COMMON REPRESENTATION SENT TO THE RESPONDENTS 1 AND 2 DTD. 27/06/2005.**

9TH RESPONDENT'S EXHIBITS:

- EXT.R9(A): COPY OF THE TERMS AND CONDITIONS OF WORKING OF LICENCED PORTERS BY RAILWAY DTD. 25/07/1972.**
- EXT.R9(B): COPY OF PLATFORM PERMIT CARD ISSUED BY THE SOUTHERN RAILWAY, TRICHUR ISSUED TO MR. ARSHAD P.A.**
- EXT.R9(C): COPY OF THE IDENTITY CARD ISSUED TO V.P.SUNNY LICENCED PORTERS BY SOUTHERN RAILWAY.**

/TRUE COPY/

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S.SIRI JAGAN, J.

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W.P.(C).Nos.20458, 26236

& 33210 of 2005

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Dated this the 26th day of June, 2007

J U D G M E N T

W.P(C).No.33210/2005 is filed by the Thrissur Railway Parcel Agents & Workers Congress, a union representing the platform permit holders, seeking implementation of Ext.P3 decision by the Railway Board. By Ext.P3 decision, the Board took a decision as follows:

"Kindly refer to your letter No.2218/WAT/PT dated 10.6.1997 requesting the Board to grant post facto sanction for engaging the licensed porters for 8 hours a day for handling the Railway parcels consequent to the judgment of High Court of AP on W.P.No.13354/94.

The matter has been examined in Board's office in the light of the court judgment on similar cases and their implications. It has been decided, in supersession to the Board' instructions of even No. dated 26.9.70, that the licensed porters should not be utilised for parcel handling work as they are granted licenses for carrying passengers' luggage only. In case they are to be used for handling parcels, they should surrender their coolie licenses."

The contention of the petitioner is that the 2nd respondent in that writ petition, viz., the Station Superintendent of Thrissur Railway Station, is not

implementing Ext.P3 decision.

2. In W.P(C).No.20458/2005 six individual workers claiming to be the children of respondents- 3 to 8 parcel permit holders, seek a direction to respondents 1 and 2 therein, who are the Station Superintendent, Trichur Railway Station and the Senior Divisional Commercial Manager, Trivandrum, to issue platform permits to them to work as parcel porters as authorised by Ext.P4 which is an authorisation issued by the Kerala Vypari Vyavasayi Federation, nominating the petitioners as parcel porters in the place of respondents 3 to 8 in that writ petition.

3. W.P(C).No.26236/2005 is filed by Trichur Railway Licensed Kooli Porters' Union, a union representing the licensed Coolie Porters, seeking a direction to the 1st respondent-Divisional Railway Manager, Railway Divisional Office, Thiruvananthapuram, to consider and pass orders on Ext.P1 request filed by them to ensure that the platform permit holders in Trichur Railway Station

are allowed to handle parcel luggage of only the commercial establishments which had sponsored them, whose name appears in the permit issued to each.

4. The above writ petitions arise from the following set of facts:- There are three types of porters in the railway stations. One is the permanent railway employees employed as Group D Railway Parcel Porters, who are directly employed and paid by the Railways. The second is the licensed coolie porters who are licensed to carry luggages in the platforms. The third is that platform permit holders who are engaged for the purpose of handling parcels brought in Railway platforms by traders. There arose a question as to whether the licensed coolie porters can be allowed to handle parcels brought by break van by the traders. The Thrissur Railway Parcel Agents and Workers Congress claims that the licensed coolie porters cannot be allowed to handle parcels by virtue of Ext.P3 in W.P(C).No.33210/2005, by which it has been decided by the Railway Board that the

licensed coolie porters should not be utilised for handling parcels as they are granted licenses for carrying passengers' luggage only and therefore, in case they are to be used for handling parcels, they should surrender their licences.

5. The learned Standing Counsel for the Railways would submit that as far as the Railways is concerned, they are strictly enforcing Ext.P3, which is disputed by the Thrissur Railway Parcel Agents & Workers Congress, according to whom, the Station Superintendent is permitting licensed coolie porters also to handle parcels, which has been prohibited by Ext.P3. On the other hand, the Thrissur Railway Licensed Kooli Porters' Union would submit that going by Ext.R5(a) produced by them along with counter affidavit in W.P(C).No.33210/2005, it is evident that the platform permit holders are authorised only to handle parcels brought in by particular trader whose name appears in the permit as the person who sponsored the particular permit holder. They would

also submit that Ext.P3 has been impliedly overridden by Ext.P2 in W.P(C).No.26236/2005 since Ext.P3 is dated 30.7.2997 whereas as per, Ext.P2 Indian Railway Conference Association Coaching Tariff No.25 brought into force with effect from 15.1.1998, licensed porters at principal stations are also authorised to carry parcels brought in by mail and passengers trains. Clause 119 of Ext.P2 reads thus:

"119. Platform Porters at Principal Stations- Licensed Porters at principal stations attend all Mail and Passenger trains for carrying parcel and luggage. These men are not railway employees, but are licensed by railways for the convenience of passengers and must be paid the local authorized charges. These charges are posted up in a conspicuous place at the station to which they are applicable. Any complaint against Licensed Porters should be immediately made to the Station Mater on duty, the number on the badge worn by each man being noted for identification."

It is based on the above clause that the Trichur Railway Licensed Kooli Porters' Union raised this contention. Going by Ext.P3, which the learned Standing Counsel for the Railways submits, has been upheld by the Division Bench of this court, the contention of the Thrissur Railway Parcel Agents & Workers Congress appears to be correct. But going

by clause 119 of Ext.P2, which has come into existence subsequent to Ext.P3, the contention of the Trichur Railway Licensed Kooli Porters' Union cannot be easily brushed aside. Further, going by Ext.R5(a) copy of a permit issued to a parcel permit holder [in W.P(C).No.33210/05], the contention that the permit holder can work only for the trader whose name appears in the permit as the sponsor of the permit holder, is also worth considering. In the above circumstances, it is imperative that somebody authorised to do so should take a final decision on these conflicting claims which are prima facie supported by documents in favour of both sets of workers. Accordingly, both the Thrissur Railway Parcel Agents & Workers Congress, and the Trichur Railway Licensed Kooli Porters' Union are directed to file appropriate representations along with supporting documents and a certified copy of this judgment, before the Senior Divisional Commercial Manager, Thiruvananthapuram. He shall forward the same to

the Chief Commercial Manager, Southern Railway Headquarters, Chennai, who shall take a final decision on these conflicting claims within a period of one month from the date of receipt of the representations along with the certified copy of this judgment. In order to avoid delay, I further direct that the representations shall be submitted within three weeks from today and the Senior Divisional Commercial Manager shall forward the representations to Chennai, within one week from the date of receipt of the same.

6. At this juncture, I also note the submission made by the learned Standing Counsel for the Railways that the Railway has already adopted a system for outsourcing handling of parcels and tenders are being invited at Trichur Railway Station for the purpose.

Writ petitions are disposed of as above.

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Sd/-
S.SIRI JAGAN, JUDGE

